

ORIGINAL

OPEN MEETING ITEM

3/14-15/17



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COMMISSIONERS
TOM FORESE – Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD DUNN

TED VOGT
EXECUTIVE DIRECTOR



SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 388-1335
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Tom Forese, Chairman
Bob Burns
Doug Little
Andy Tobin
Boyd Dunn

Arizona Corporation Commission

DOCKETED

FEB 28 2017

FROM: Matthew J. Neubert *MJN*
Director of Securities

DOCKETED BY
GB

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL
2017 FEB 28 A 10:39

DATE: February 27, 2017

RE: Proposed Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties, Docket No. S-20986A-16-0340

CC: Ted Vogt, Executive Director

Please find attached a proposed Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties ("Order") as to Jacob Wohl *et al.* In early 2015, California resident Jacob Wohl ("Wohl"), then 17 years old, made several media appearances in which he held himself out to be a hedge fund manager. As a result of the media appearances, two Arizona residents contacted Wohl and later invested in Wohl's hedge fund, Wohl Capital Investment Group, LLC ("WCIG"), which traded with the investors' money in exchange for management and performance fees. Wohl obtained at least one of the investments by misrepresenting WCIG's size and by representing that only 20% of the investment capital would be at risk. In January 2016, Wohl ceased WCIG's operations and returned approximately 60% of the Arizona investors' capital.

In late 2015, Wohl and Matthew Johnson ("Johnson") began soliciting investment in NeX Capital Management, LLC ("NeX"), a new hedge fund they planned to operate. Wohl and Johnson solicited investment from two Arizona investors by misrepresenting the risk associated with the investment. The Arizona investors each entered into written agreements with NeX, but terminated the investment process before NeX engaged in any trading on their behalf.

In July 2016, Montgomery Assets, Inc. ("MAI"), a Wyoming corporation controlled by Wohl and Johnson, began to post advertisements on Craigslist-Phoenix soliciting investment in a

house-flipping business via promissory notes. The Craigslist advertisements and MAI's website made several misrepresentations regarding MAI's size, the experience of its employees, and the risk associated with the investment. Wohl and Johnson made additional, similar misrepresentations during a phone call with a Division Investigator responding to one of the advertisements. It does not appear that any Arizona residents invested in MAI.

None of the foregoing individuals or entities has been registered with the Commission as a salesman, dealer, investment adviser, or investment adviser representative at any time. In addition, the investments offered by the foregoing individuals and entities were not registered with the Commission.

On September 27, 2016, the Securities Division filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing ("Notice") against Wohl, Johnson, WCIG, NeX, and MAI. Wohl, WCIG, NeX, and MAI were served on October 10, 2016 and Johnson was served on January 16, 2017. None of the Respondents has answered the Notice or requested a hearing.

The Order finds that all Respondents violated A.R.S. §§ 44-1841 and 44-1842 by selling unregistered securities while being unregistered. The Order also finds that all Respondents violated A.R.S. §§ 44-1991 by, in connection with the offer or sale of securities, making untrue statements of material fact or omitting to state material facts that were necessary in order to make the statements made not misleading. In addition, the Order finds that Wohl, Johnson, WCIG, and NeX violated A.R.S. § 3241 by, in connection with the provision of investment advisory services, making untrue statements of material fact or omitting to state material facts that were necessary in order to make the statements made not misleading. Accordingly, the Order requires Respondents to cease and desist from violating the Securities Act and Investment Management Act, to pay restitution of \$32,918.72, and to pay administrative penalties totaling \$20,000.

Originator: Chris Nichols

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TOM FORESE - Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD DUNN

JACOB WOHL, a single man,

MATTHEW JOHNSON, a single man,

WOHL CAPITAL INVESTMENT GROUP,
LLC, a California limited liability company,)

NEX CAPITAL MANAGEMENT, LLC, a Delaware limited liability company,

MONTGOMERY ASSETS, INC., a
Wyoming corporation,

Respondents.

DECISION NO. _____

ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, AND ORDER FOR ADMINISTRATIVE PENALTIES

On September 27, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (“Notice”) against Respondents Jacob Wohl, Matthew Johnson, Wohl Capital Investment Group, LLC, NeX Capital Management, LLC, and Montgomery Assets, Inc.

On October 10, 2016, the Division served a copy of the Notice upon Jacob Wohl, Wohl Capital Investment Group, LLC, NeX Capital Management, LLC, and Montgomery Assets, Inc., by delivering the same to Jacob Wohl via personal service. On January 16, 2017, the Division served a copy of the Notice upon Matthew Johnson by delivering the same to Matthew Johnson via Federal Express. No request for a hearing or answer to the Notice has been filed as of February 27, 2017.

I.

FINDINGS OF FACT

1. Respondent Jacob Wohl (“Wohl”) is a resident of Los Angeles County, California.

1 2. Respondent Matthew Johnson ("Johnson") is a resident of Los Angeles County,
2 California.

3 3. Respondent Wohl Capital Investment Group, LLC ("WCIG") is a California limited
4 liability company.

5 4. Wohl was the chief executive officer, majority owner, and chief strategist of WCIG at
6 all times.

7 5. Respondent NeX Capital Management, LLC ("NeX") is a Delaware limited liability
8 company.

9 6. Wohl was the chief executive officer and a managing partner of NeX at all times.

10 7. At all relevant times, Johnson was an executive officer and managing partner of NeX.

11 8. Respondent Montgomery Assets, Inc. ("MAI") is a Wyoming corporation.

12 9. At all relevant times, Wohl was an executive officer, managing partner, and director of
13 MAI.

14 10. At all relevant times, Johnson was an executive officer and director of MAI.

15 11. None of the Respondents have been registered with the Commission as a securities
16 salesman, securities dealer, investment adviser, or investment adviser representative.

17 12. In early 2015, Wohl made several media appearances in which he held himself out to
18 be a hedge fund manager.

19 13. In or around March 2015, after viewing one of Wohl's media appearances, an Arizona
20 resident ("Investor 1") contacted Wohl regarding WCIG and its investment strategies. During the
21 conversation, Wohl represented that:

- 22 • Only 20% of Investor 1's investment with WCIG would be at risk;
- 23 • WCIG was not required to be registered with any agency;
- 24 • WCIG managed 178 investment accounts; and
- 25 • Wohl was managing between \$9 million and \$10 million in assets.

26 14. WCIG had no more than 13 investors.

1 15. Wohl was managing no more than \$500,000 in assets at any time.

2 16. Following Wohl's telephone conversation with Investor 1, Wohl sent Investor 1 a
3 prospectus ("WCIG Prospectus"). The WCIG Prospectus:

- 4 • Stated that investors that had invested by January 1, 2015 with WCIG have made roughly
5 23% return on investment; and
- 6 • Identified a potential trade as having a 99.5% probability of profit, and described the trade as
7 a textbook trade for WCIG.

8 17. The WCIG Prospectus was accompanied by a Confirmation of Investment Form.
9 Pursuant to the Confirmation of Investment Form, Investor 1 agreed to invest \$15,000 with WCIG.
10 The Confirmation of Investment Form stated that:

- 11 • WCIG is a hedge fund";
- 12 • Wohl is the manager and administrator of the hedge fund; and
- 13 • WCIG charges a 3% fee on the asset value of the fund as well as a 20% fee on any profits
14 earned.

15 18. On March 27, 2015, Investor 1 invested in the WCIG hedge fund by tendering a check
16 for \$15,000 to WCIG.

17 19. In or around July 2015, WCIG sent Investor 1 an Institutional Investor Form.
18 Pursuant to the Institutional Investor Form, Investor 1 agreed to invest an additional \$25,000 with
19 WCIG. The Institutional Investor Form stated:

- 20 • Wohl is the manager and administrator of the hedge fund; and
- 21 • WCIG charges a 2.5% fee on the asset value of the fund as well as a 20% fee on any profits
22 earned.

23 20. On July 20, 2015, Investor 1 invested an additional \$25,000 in WCIG via wire
24 transfer.

1 21. In or around October 2015, Investor 1 completed a second Institutional Investor Form.
2 Pursuant to the second Institutional Investor Form, Investor 1 agreed to invest an additional \$35,000
3 with WCIG. The second Institutional Investor Form stated that:

- 4 • Wohl is the manager and administrator of the hedge fund; and
- 5 • WCIG charges a 2.5% fee on the asset value of the fund as well as a 20% fee on any profits
6 earned.

7 22. On October 16, 2015, Investor 1 invested an additional \$35,000 in WCIG via wire
8 transfer.

9 23. Investor 1 had no power to participate in the management or operations of WCIG.
10 Investor 1's sole contribution to WCIG was his investment of money.

11 24. On or about December 2, 2015, WCIG sent Investor 1 the November Return
12 Statement, which stated that Investor 1's investment of \$75,000 had appreciated to \$89,461.05.

13 25. In early December 2015, Wohl informed Investor 1 and another Arizona resident
14 ("Investor 2") that he was creating a new hedge fund, NeX, and sent a prospectus for NeX to them.
15 The NeX prospectus states:

- 16 • NeX expects to deliver at least a 20% annual return to investors while taking on less risk than
17 common marketplace benchmarks such as the S&P 500;
- 18 • NeX's "volatility arbitrage" strategy "allows profits regardless of market direction"; and
- 19 • NeX's "interest rate arbitrage" strategy "eliminates exposure to systemic risk within a single
20 market (e.g. S&P 500)."

21 26. On December 17, 2015, Wohl and Johnson met with Investors 1 and 2 at their home
22 in Scottsdale, Arizona to solicit investment in NeX. At the meeting, NeX, Wohl and Johnson
23 presented Investor 1 and Investor 2 with the Investment Management Agreement ("the NeX
24 Agreement"). Pursuant to the NeX Agreement:

- 25 • NeX is deemed "the Advisor" and Investor 1 is deemed "the Client";

- 1 • The Client opens a trading account and appoints the Advisor to manage the assets in the
- 2 account;
- 3 • The Client appoints the Advisor as his attorney-in-fact to trade in investments on his behalf;
- 4 • The Advisor has authority to make all trading decisions for the account without prior
- 5 consultation with or notice to the Client;
- 6 • The Advisor shall receive a management fee of 2.2% of the funds in the account; and
- 7 • The Advisor shall receive a performance fee of 17% of the appreciation of the account.

8 27. Following the December meeting, Investor 1 and Investor 2 each entered into the NeX
9 Agreement.

10 28. Investor 2 invested in NeX by tendering a \$20,000 check to NeX, while Investor 1
11 agreed with Wohl and Johnson to reinvest his WCIG investment with NeX.

12 29. Investors 1 and 2 had no power to participate in the management or operations of
13 NeX. Their sole contribution to NeX was the investment of money.

14 30. Investor 1 contacted Wohl on January 20, 2016 regarding the return of his WCIG
15 investment and Wohl responded that a check for approximately \$90,000, depending on the final
16 accounting, would be sent to Investor 1 via overnight shipping.

17 31. When Wohl failed to timely return Investor 1's investment, Investor 1 call Wohl on
18 several occasions and left voicemails that Wohl did not return.

19 32. On or about January 28, 2016, WCIG sent Investor 1 a check for \$44,131.69,
20 purportedly in satisfaction of any obligation to Investor 1 regarding his investment with WCIG. The
21 check was not accompanied by any accounting of Investor 1's investment.

22 33. In late January or early February 2016, Investor 2 stopped payment on the \$20,000
23 check she had tendered to NeX.

24 34. At all relevant times, Investor 3 has been a resident of Phoenix, Arizona.

25
26

1 35. In or around March 2015, after viewing one of Wohl's media appearances, Investor
2 3 contacted Wohl regarding to discuss Wohl's hedge fund. Wohl led Investor 3 to believe that he
3 would receive a high rate of return if he invested.

4 36. Following his contact with Wohl, on or around March 31, Investor 3 invested \$5,000
5 with WCIG by mailing a check to WCIG's address in Corona, California.

6 37. Pursuant to the agreement between WCIG and Investor 3, WCIG was to receive
7 compensation in the form of a 3% management fee and a 20% performance fee on Investor 3's
8 investment.

9 38. Investor 3 had no power to participate in the management or operations of WCIG.
10 Investor 3's sole contribution to WCIG was his investment of money.

11 39. On or around December 30, 2015, Wohl sent an email to Investor 3 stating that the
12 WCIG fund would be closed down on January 15, 2016.

13 40. On or around January 28, 2016, WCIG sent Investor 3 a check in the amount of
14 \$2,949.59, purportedly in satisfaction of any obligation to Investor 3 regarding his investment with
15 WCIG.

16 41. On or around July 4, 2016, MAI posted an advertisement ("Advertisement 1") on
17 Craigslist Phoenix, an online-classifieds website, titled "Conservative Real Estate Investing (10%
18 Reliable Return)."

19 42. Advertisement 1 was posted in the "financial services" classifieds and was directed
20 at residents of Phoenix.

21 43. Advertisement 1 states:

- 22 • MAI has more than 30 years of experience investing in real estate throughout Southern
23 California;
- 24 • MAI is opening up its secured real estate deals to the general public;
- 25 • MAI purchases homes in desirable areas for 30% under their fair market value;
- 26

- MAI renovates the homes in 4 weeks and then sells the homes “quickly through our vast network of real estate brokers, investment funds and other professionals, EXITING for between a 15% and 45% net profit”;
- MAI will make investors 15% in 6 months or less; and
- MAI is a Series 3 licensed broker.

44. Advertisement 1 also encourages potential investors to “reach out” to MAI, and directs potential investors to MAI’s website, www.BeverlyHillsInvesting.com.

45. On or around July 5, 2016, MAI posted another advertisement (“Advertisement 2”) on Craigslist Phoenix titled “Conservative Real Estate Investing -- 7% in 6 Months, Low Risk.”

46. Advertisement 2 was posted in the “financial services” classifieds and was directed at residents of Phoenix.

47. Advertisement 2 states:

- Montgomery Assets has more than 30 years of experience investing in real estate throughout Southern California;
- Institutional investors such as pensions, endowments and charities have worked with MAI for a long time, using bespoke deals to generate returns;
- MAI is opening up its secured real estate deals to the general public;
- MAI purchases homes in desirable areas for 30% under their fair market value;
- MAI renovates the homes in 4 weeks and then sells the homes “quickly through our vast network of real estate brokers, investment funds and other professionals, EXITING for between a 15% and 45% net profit”;
- MAI will make investors 7% in 6 months or less; and
- MAI is a licensed NMLS lender and real estate broker.

48. Advertisement 2 also encourages potential investors to “reach out” to MAI, directs potential investors to MAI’s website, www.BeverlyHillsInvesting.com, and provides a phone number to contact MAI.

1 49. On or around August 2, 2016, MAI posted another advertisement ("Advertisement
2 3") on Craigslist Phoenix titled "7-8% Return on Real Property Investments."

3 50. Advertisement 3 was posted in the "financial services" classifieds and was directed
4 at residents of Phoenix.

5 51. Advertisement 3 states:

- 6 • MAI has more than 30 years of experience investing in real estate throughout Southern
7 California;
- 8 • MAI is opening up its secured real estate deals to the general public;
- 9 • MAI purchases homes in desirable areas for 30% under their fair market value;
- 10 • MAI renovates the homes in 4 weeks and then sells the homes "quickly through our vast
11 network of real estate brokers, investment funds and other professionals, EXITING for
12 between a 8% and 15% net profit"; and
- 13 • MAI will make investors 8% in 6 months or less.

14 52. Advertisement 3 also encourages potential investors to "reach out" to MAI, and
15 directs potential investors to MAI's website, www.BeverlyHillsInvesting.com.

16 53. On or around August 3, 2016, MAI posted another advertisement ("Advertisement
17 4") on Craigslist Phoenix titled "Safe Real Estate Investing -- 8% In 6 Months."

18 54. Advertisement 4 was posted in the "financial services" classifieds and was directed
19 at residents of Phoenix.

20 55. Advertisement 4 states:

- 21 • MAI has more than 35 years of experience flipping single-family residential real estate;
- 22 • MAI is doing its September offering of "American Eagle Promissory Notes";
- 23 • MAI "can get [investors] in on these deals with an investment as low as \$20,000";
- 24 • The investment is "for people looking for safe, conservative, reliable returns";
- 25 • MAI guarantees that it will make investors 8% in 6 months; and
- 26 • MAI has been a licensed broker for 14 years.

1 56. Advertisement 4 also encourages potential investors to “reach out” to MAI, directs
2 potential investors to MAI’s website, www.BeverlyHillsInvesting.com, and provides a phone
3 number to contact MAI.

4 57. On or around August 3, 2016, MAI posted another advertisement (“Advertisement
5 5”) on Craigslist Phoenix titled “Safer Real Estate Investment (35 years experience).”

6 58. Advertisement 5 was posted in the “financial services” classifieds and was directed
7 at residents of Phoenix.

8 59. Advertisement 5 states:

- 9 • MAI has more than 35 years of experience flipping single-family residential real estate;
- 10 • MAI is doing its September offering of “American Eagle Promissory Notes”;
- 11 • MAI “can get [investors] in on these deals with an investment as low as \$20,000”;
- 12 • “This is a safe, secure, conservative investment”;
- 13 • MAI guarantees that it will make investors 8% in 6 months; and
- 14 • MAI is a licensed “Real Estate Broker, Mortgage Broker, Series 3, etc.”

15 60. Advertisement 5 also encourages potential investors to “reach out” to MAI, directs
16 potential investors to MAI’s website, www.BeverlyHillsInvesting.com, and provides a phone
17 number to contact MAI.

18 61. On or around August 4, 2016, MAI posted another advertisement (“Advertisement
19 6”) on Craigslist Phoenix titled “Conservative Investment Firm -- Accepting New Clients.”

20 62. Advertisement 6 was posted in the “financial services” classifieds and was directed
21 at residents of Phoenix.

22 63. Advertisement 6 states:

- 23 • MAI has more than 30 years of experience helping individual and institutional clients reach
24 their financial goals;
- 25 • MAI offers “the safest, most conservative real estate investments in the world, rather than
26 under performing, dangerous paper assets”; and

- MAI has been a licensed broker for 14 years.

64. Advertisement 6 also directs potential investors to MAI's website, www.BeverlyHillsInvesting.com, and provides a phone number to contact MAI.

65. On or around August 7, 2016, MAI posted another advertisement ("Advertisement 7") on Craigslist Phoenix titled "High Yield Notes -- Safe and Secure."

66. Advertisement 7 was posted in the "financial services" classifieds and was directed at residents of Phoenix.

67. Advertisement 7 states:

- MAI is a financial firm with more than 30 years of collective experience helping investors reach their financial goals;
- MAI is very well known for its American Eagle Secured Notes;
- MAI is unveiling a limited \$25M offering of high yield notes; and
- MAI is a licensed broker and has a Series 3.

68. Advertisement 7 also directs potential investors to MAI's website, www.BeverlyHillsInvesting.com, and provides a phone number to contact MAI.

69. Advertisement 7 contained an embedded document providing additional information regarding the notes offered. The document:

- Indicates that MAI has operations in Dubai, New York, Geneva, Chicago, Dallas, Hong Kong, and Silicon Valley;
- States that MAI is famous for its Secured American Eagle Notes;
- Provides a spreadsheet of interest rates for the notes ranging from 7% to 17.5% based on the investment amount and note term;
- States that the notes are unsecured;
- States that the minimum investment amount is \$15,000; and
- Encourages potential investors to call or email MAI.

1 70. On or around August 8, 2016, MAI posted another advertisement ("Advertisement
2 8") on Craigslist Phoenix titled "Safe Real Estate Investing (8% Return in 6 Months)."

3 71. Advertisement 8 was posted in the "financial services" classifieds and was directed
4 at residents of Phoenix.

5 72. Advertisement 8 states:

- 6 • MAI has a team with more than 30 years of combined experience investing in real estate;
- 7 • MAI is opening up our in-house real estate deals to individual investors with as little as
8 \$15,000 to invest;
- 9 • MAI purchases a "beat up home at an extremely low price";
- 10 • MAI's in-house contractors fix up the home in 3 weeks;
- 11 • MAI markets and sells the home using its "vast network of agents and brokers";
- 12 • MAI will make investors 8% in 6 months or less; and
- 13 • MAI is a licensed real estate broker, agent, and mortgage broker.

14 73. Advertisement 8 also encourages potential investors to "reach out" to MAI, directs
15 potential investors to MAI's website, www.BeverlyHillsInvesting.com, and provides a phone
16 number to contact MAI.

17 74. At the time Advertisements 1–8 were posted, the "Leadership" section of MAI's
18 website, located at www.BeverlyHillsInvesting.com/Leadership, stated that:

- 19 • Wohl has 10 years of investment experience; and
- 20 • Johnson has 10 years of options trading experience.

21 75. At the time Advertisements 1–8 were posted, the "Contact" section of MAI's website,
22 located at <http://montgomeryassets.com/contact>, stated that MAI has "global offices" in Beverly
23 Hills, Los Angeles, San Francisco, Hong Kong, Dubai, and Geneva.

24 76. Advertisements 1–8 and www.BeverlyHillsInvesting.com did not disclose that:

- 25 • MAI was incorporated in Wyoming in April 2016;
- 26 • MAI is not licensed by the NMLS as a lender or in any capacity;

- 1 • MAI is not licensed by the California Bureau of Real Estate or the Arizona Department of
- 2 Real Estate as a broker or in any other capacity;
- 3 • At the time Advertisements 1–8 were posted to Craigslist, Wohl was 18 years old and Johnson
- 4 was 27 years old;
- 5 • MAI’s “global offices” are virtual offices and MAI has no meaningful presence in Hong
- 6 Kong, Dubai, or Geneva, nor has it ever conducted operations there; and
- 7 • Investors 1 and 3 lost more than 40% of the principal they invested in WCIG, a hedge fund
- 8 owned and managed by Wohl from 2015 to 2016.

9 77. On July 12, 2016, an Arizona resident (“Investor 4”) emailed MAI in response to
10 Advertisement 2 by using the online contact form at MAI’s website,
11 www.BeverlyHillsInvesting.com. The email stated that Investor 4 was interested in MAI’s real
12 estate investment opportunities.

13 78. Investor 4 also responded to Advertisement 2 by using the reply-by-email function on
14 Craigslist, and by calling the number provided in Advertisement 2 and leaving a voicemail.

15 79. On July 18, 2016, Wohl sent an email to Investor 4 requesting Investor 4’s phone
16 number to facilitate an investment consultation.

17 80. After several more exchanges, Investor 4 contacted Wohl via telephone on August 1,
18 2016, to discuss the investment. Investor 4 stated that she had received an inheritance and was
19 considering an investment of \$100,000. During the phone conversation, Wohl stated:

- 20 • Investors are guaranteed to make 8% in 6 months or less;
- 21 • Investor 4’s investment principal would be 100% safe even if the housing market softened;
- 22 • MAI has 30 years of experience and “has been around for a while”;
- 23 • MAI is “quite a large firm here. [It’s] not ultra-large; [it’s] not Goldman Sachs; [it’s] not
- 24 Wells Fargo, but, you know, [it’s] got a nice solid team”;
- 25 • Investor 4’s investment would be combined with the funds of others to purchase a property;
- 26

- 1 • In some instances, investments from multiple investors are combined with MAI's funds to
- 2 purchase a property;
- 3 • Investor 4's only contribution to the investment would be money and would not participate
- 4 in any other respect;
- 5 • Investor 4 would be repaid when the property is sold; and
- 6 • Investor 4 would receive a promissory note in exchange for the investment funds.

7 81. At the end of the conversation, Wohl transferred Investor 4 to Johnson, who identified
8 himself as the "chief investment officer." Johnson stated:

- 9 • MAI would not guarantee that Investor 4 would receive a profit, but if the sale of the home
- 10 was very profitable, Investor 4 would receive an 8% return on her principal;
- 11 • MAI had identified a property in Los Angeles to purchase, had already obtained one investor
- 12 for the property, Mr. Burgess, and were looking for additional investors to fund the purchase;
- 13 • Mr. Burgess had been investing with MAI for over one year;
- 14 • MAI had executed 11 deals in the last 365 days; and
- 15 • MAI would be responsible for all business activities—Investor 4 need only send MAI the
- 16 investment check.

17 82. On August 1, 2016, Wohl emailed a partially-completed promissory note to Investor
18 4. The promissory note was in the amount of \$100,000 and provided for an 8% return in 6 months.
19 The promissory note also provided that an investor's ownership stake in the home is commensurate
20 with the investor's investment amount relative to the total purchase price.

21 83. On August 2, 2016, Johnson called Investor 4 and left a voicemail inquiring as to the
22 status of the investment check.

23 84. On August 6, 2016, Wohl emailed Investor 4 a letter predicting a "volatility event"
24 between August and December 2016 "similar to the one that took place in in [sic] August 2015."
25 The letter encouraged MAI clients to sell their holdings in equities, including mutual funds and
26 exchange-traded funds, and reallocate those assets to MAI's promissory notes.

II.

CONCLUSIONS OF LAW

85. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution, A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and A.R.S. § 44-3101, *et seq.*, the Investment Management Act ("IM Act").

86. Wohl, Johnson, WCIG, NeX, and MAI offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

87. Wohl, Johnson, WCIG, NeX, and MAI violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

88. Wohl, Johnson, WCIG, NeX, and MAI violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman nor exempt from registration.

89. In connection with the offer or sale of securities within or from Arizona, Respondents have been or are violating A.R.S. § 44-1991 by, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

a) Wohl and WCIG falsely represented to Investor 1 that only 20% of his investment would be at risk, yet lost approximately 50% of Investor 1's account value between December 2015 and January 2016;

b) Wohl and WCIG falsely represented to Investor 1 that WCIG managed 178 investment accounts, but actually managed only 13;

c) Wohl and WCIG falsely represented to Investor 1 that WCIG managed between \$9 million and \$10 million in assets, but actually managed less than \$500,000;

1 d) Wohl and WCIG misled Investor 1 regarding the risk associated with the
2 investment by representing that a textbook trade for WCIG had a 99.5% probability of profit;

3 e) Wohl and WCIG misled Investor 1 regarding the likely return on investment by
4 representing that investors who had invested by January 1, 2015, received a 23% return in the first
5 quarter of 2015;

6 f) Wohl, Johnson, and NeX misled Investors 1 and 2 regarding the risk associated
7 with the investment by representing that the investment strategy eliminated exposure to systemic risk
8 and would result in profits regardless of market direction;

9 g) Wohl, Johnson, and NeX misled investors 1 and 2 regarding the likely return on
10 the investment by representing that their investments would yield at least a 20% annual return while
11 having no reasonable basis for such a projection;

12 h) Wohl, Johnson, and MAI falsely represented to potential investors that MAI had
13 35 years of experience flipping single-family residential real estate, but MAI has existed for less than
14 six months, Wohl is 18 years old, and Johnson is 27 years old;

15 i) Wohl, Johnson, and MAI guaranteed potential investors that their investments
16 would be "100% safe," but did not disclose that investors may lose money if MAI is unable to repay the
17 notes due to depreciation of the investment properties or other circumstances;

18 j) Wohl, Johnson, and MAI falsely represented to potential investors that
19 institutional investors have worked with MAI for a long time, when MAI had been incorporated for less
20 than six months;

21 k) Wohl, Johnson, and MAI falsely represented to potential investors that MAI is a
22 licensed NMLS lender, real estate agent, mortgage broker, and has been a real estate broker for 14 years,
23 but MAI was not so licensed or registered;

24 l) Wohl, Johnson, and MAI misled potential investors by representing that, while
25 not ultra-large like Wells Fargo or Goldman Sachs, MAI is "quite a large firm";
26

1 m) Wohl, Johnson, and MAI misled Investor 4 and other potential investors
2 regarding MAI's size and the extent of its operations by representing that MAI has offices in Geneva,
3 Hong Kong, and Dubai; and

4 n) Johnson and MAI misled Investor 4 by representing that MAI has completed 11
5 deals in the last 365 days, when MAI had been incorporated for less than six months.

6 90. Respondents Wohl and Johnson directly or indirectly controlled NeX and MAI within
7 the meaning of A.R.S. § 44-1999. Therefore, Wohl and Johnson are jointly and severally liable under
8 A.R.S. § 44-1999 to the same extent as NeX and MAI for violations of A.R.S. § 44-1991.

9 91. Respondents Wohl, Johnson, WCIG, and NeX have violated A.R.S. § 44-3241 by
10 engaging in a transaction or transactions within or from Arizona involving the provision of investment
11 advisory services in which Respondents were, directly or indirectly: (i) employing a device, scheme, or
12 artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that
13 are necessary in order to make the statements made not misleading in light of the circumstances under
14 which they are made; (iii) misrepresenting professional qualifications with the intent that the client rely
15 on the misrepresentation; or (iv) engaging in transactions, practices, or courses of business that operate
16 or would operate as a fraud or deceit. Respondents' conduct includes, but is not limited to, the following:

17 a) Wohl and WCIG falsely represented to Investor 1 that only 20% of his
18 investment would be at risk, yet lost approximately 50% of Investor 1's account value between
19 December 2015 and January 2016;

20 b) Wohl and WCIG falsely represented to Investor 1 that WCIG managed 178
21 investment accounts, but actually managed only 13;

22 c) Wohl and WCIG falsely represented to Investor 1 that WCIG managed between
23 \$9 million and \$10 million in assets, but actually managed less than \$500,000;

24 d) Wohl and WCIG misled Investor 1 regarding the risk associated with the
25 investment by representing that a textbook trade for WCIG had a 99.5% probability of profit;
26

1 e) Wohl and WCIG misled Investor 1 regarding the likely return on investment by
2 representing that investors who had invested by January 1, 2015, received a 23% return in the first
3 quarter of 2015;

4 f) Wohl, Johnson, and NeX misled Investors 1 and 2 regarding the risk associated
5 with the investment by representing that the investment strategy eliminated exposure to systemic risk
6 and would result in profits regardless of market direction; and

7 g) Wohl, Johnson, and NeX misled investors 1 and 2 regarding the likely return on
8 the investment by representing that their investments would yield at least a 20% annual return while
9 having no reasonable basis for such a projection.

10 92. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S.
11 §§ 44-2032 and 44-3292.

12 93. Respondents' conduct is grounds for an order of restitution pursuant to A.R.S. §§ 44-
13 2032 and 44-3292.

14 94. Respondents' conduct is grounds for administrative penalties under A.R.S. §§ 44-
15 2036 and 44-3296.

16 III.

17 ORDER

18 THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission
19 finds that the following relief is appropriate, in the public interest, and necessary for the protection
20 of investors:

21 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-3292, that Respondents, and any of
22 Respondents' agents, employees, successors and assigns, permanently cease and desist from
23 violating the Securities Act and IM Act.

24 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-3292, that Respondent
25 Wohl shall, jointly and severally with WCIG, under Docket No. S-20986A-16-0340, pay restitution
26 to the Commission in the principal amount of \$32,918.72 as a result of the conduct set forth in the

1 Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment
2 shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the
3 Commission. Any principal amount outstanding shall accrue interest at the rate of ten percent per
4 annum from the date of purchase until the date of this Order. Interest in the amount of \$3,586.48 has
5 accrued from the date of purchase to February 27, 2017.

6 IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraph will
7 accrue interest, as of the date of the Order, at the rate of the lesser of (i) ten percent per annum or (ii)
8 at a rate per annum that is equal to one per cent plus the prime rate as published by the board of
9 governors of the federal reserve system in statistical release H. 15 or any publication that may
10 supersede it on the date that the judgment is entered.

11 The Commission shall disburse the funds on a pro-rata basis to investors shown on the records
12 of the Commission. Any restitution funds that the Commission cannot disburse because an investor
13 refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor
14 because the investor is deceased and the Commission cannot reasonably identify and locate the
15 deceased investor's spouse or natural children surviving at the time of the distribution, shall be
16 disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission.
17 Any funds that the Commission determines it is unable to or cannot feasibly disburse shall be
18 transferred to the general fund of the state of Arizona.

19 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2036 and 44-3296, that Respondent
20 Wohl shall, jointly and severally with WCIG, under Docket No. S-20986A-16-0340, pay an
21 administrative penalty in the amount of \$10,000 as a result of the conduct set forth in the Findings of
22 Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be
23 made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

24 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2036 and 44-3296, that Respondent
25 Wohl shall, jointly and severally with Johnson and NeX, under Docket No. S-20986A-16-0340, pay
26 an administrative penalty in the amount of \$5,000 as a result of the conduct set forth in the Findings

1 of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be
2 made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent Wohl shall,
4 jointly and severally with Johnson and MAI, under Docket No. S-20986A-16-0340, pay an
5 administrative penalty in the amount of \$5,000 as a result of the conduct set forth in the Findings of
6 Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be
7 made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

8 IT IS FURTHER ORDERED that the administrative penalties ordered in the preceding
9 paragraphs will accrue interest at the rate of the lesser of (i) ten percent per annum or (ii) at a rate
10 per annum that is equal to one per cent plus the prime rate as published by the board of governors of
11 the federal reserve system in statistical release H. 15 or any publication that may supersede it on the
12 date that the judgment is entered.

13 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
14 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
15 shall be applied to the penalty obligation.

16 IT IS FURTHER ORDERED, that if Respondents fail to comply with this order, the
17 Commission may bring further legal proceedings against Respondents, including application to the
18 superior court for an order of contempt.

19 IT IS FURTHER ORDERED that this Order shall become effective immediately.

20 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

21
22 CHAIRMAN FORESE

COMMISSIONER DUNN

23
24 COMMISSIONER TOBIN

COMMISSIONER LITTLE

COMMISSIONER BURNS

1 IN WITNESS WHEREOF, I, TED VOGT, Executive Director
2 of the Arizona Corporation Commission, have hereunto set my
3 hand and caused the official seal of the Commission to be
4 affixed at the Capitol, in the City of Phoenix, this _____ day
5 of _____, 2017.

6 _____
7 TED VOGT
8 EXECUTIVE DIRECTOR

9 _____
10 DISSENT

11 _____
12 DISSENT

13 This document is available in alternative formats by contacting Carolyn D. Buck, ADA
14 Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov.

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SERVICE LIST FOR: Jacob Wohl, *et al.*

Jacob Wohl
8309 Kirkwood Dr.
Los Angeles, CA 90046
Respondent
Officer of Respondent Wohl Capital Investment Group, LLC
Officer of Respondent NeX Capital Management, LLC
Officer of Respondent Montgomery Assets, Inc.

Matthew Johnson
8309 Kirkwood Dr.
Los Angeles, CA 90046
Respondent
Officer of Respondent NeX Capital Management, LLC
Officer of Respondent Montgomery Assets, Inc.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 TOM FORESE – Chairman
4 BOB BURNS
5 DOUG LITTLE
6 ANDY TOBIN
7 BOYD DUNN

8 In the matter of:

9 JACOB WOHL, a single man,

10 MATTHEW JOHNSON, a single man,

11 WOHL CAPITAL INVESTMENT GROUP,
12 LLC, a California limited liability company,

13 NEX CAPITAL MANAGEMENT, LLC, a
14 Delaware limited liability company,

15 MONTGOMERY ASSETS, INC., a Wyoming
16 corporation,

17 Respondents.

DOCKET NO. S-20986A-16-0340

**CERTIFICATION OF SERVICE OF
PROPOSED OPEN MEETING AGENDA
ITEM**

18 On this 28th day of February, 2017, the foregoing document was filed with Docket Control as
19 a Securities Division Memorandum & Proposed Order, and copies of the foregoing were mailed on
20 behalf of the Securities Division to the following who have not consented to email service. On this
21 date or as soon as possible thereafter, the Commission's eDocket program will automatically email
22 a link to the foregoing to the following who have consented to email service.

23 Jacob Wohl

24 8309 Kirkwood Dr.

25 Los Angeles, CA 90046

26 Respondent

Officer of Respondent Wohl Capital Investment Group, LLC

Officer of Respondent NeX Capital Management, LLC

Officer of Respondent Montgomery Assets, Inc.

Decision No. _____

1 Matthew Johnson
2 8309 Kirkwood Dr.
3 Los Angeles, CA 90046
4 *Respondent*
5 *Officer of Respondent NeX Capital Management, LLC*
6 *Officer of Respondent Montgomery Assets, Inc.*

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By: 
Emie R. Bridges, Executive Assistant